

106TH CONGRESS  
1ST SESSION

# S. 964

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## AN ACT

To provide for equitable compensation for the Cheyenne  
River Sioux Tribe, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **TITLE I—CHEYENNE RIVER**  
2 **SIoux TRIBE EQUITABLE**  
3 **COMPENSATION**

4 **SEC. 101. SHORT TITLE.**

5 This title may be cited as the “Cheyenne River Sioux  
6 Tribe Equitable Compensation Act”.

7 **SEC. 102. FINDINGS AND PURPOSES.**

8 (a) FINDINGS.—Congress finds that—

9 (1) by enacting the Act of December 22, 1944,  
10 (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et  
11 seq.), commonly known as the “Flood Control Act of  
12 1944”, Congress approved the Pick-Sloan Missouri  
13 River Basin program (referred to in this section as  
14 the “Pick-Sloan program”)—

15 (A) to promote the general economic devel-  
16 opment of the United States;

17 (B) to provide for irrigation above Sioux  
18 City, Iowa;

19 (C) to protect urban and rural areas from  
20 devastating floods of the Missouri River; and

21 (D) for other purposes;

22 (2) the Oahe Dam and Reservoir project—

23 (A) is a major component of the Pick-  
24 Sloan program, and contributes to the economy  
25 of the United States by generating a substan-

1            tial amount of hydropower and impounding a  
2            substantial quantity of water;

3            (B) overlies the eastern boundary of the  
4            Cheyenne River Sioux Indian Reservation; and

5            (C) has not only contributed little to the  
6            economy of the Tribe, but has severely damaged  
7            the economy of the Tribe and members of the  
8            Tribe by inundating the fertile, wooded bottom  
9            lands of the Tribe along the Missouri River that  
10           constituted the most productive agricultural  
11           and pastoral lands of the Tribe and the home-  
12           land of the members of the Tribe;

13           (3) the Secretary of the Interior appointed a  
14           Joint Tribal Advisory Committee that examined the  
15           Oahe Dam and Reservoir project and concluded  
16           that—

17           (A) the Federal Government did not jus-  
18           tify, or fairly compensate the Tribe for, the  
19           Oahe Dam and Reservoir project when the Fed-  
20           eral Government acquired 104,492 acres of land  
21           of the Tribe for that project; and

22           (B) the Tribe should be adequately com-  
23           pensated for the land acquisition described in  
24           subparagraph (A);

1           (4) after applying the same method of analysis  
2           as is used for the compensation of similarly situated  
3           Indian tribes, the Comptroller General of the United  
4           States (referred to in this title as the “Comptroller  
5           General”) determined that the appropriate amount  
6           of compensation to pay the Tribe for the land acquisition  
7           described in paragraph (3)(A) would be  
8           \$290,723,000;

9           (5) the Tribe is entitled to receive additional financial  
10          compensation for the land acquisition described in paragraph (3)(A) in a manner consistent  
11          with the determination of the Comptroller General  
12          described in paragraph (4); and

13          (6) the establishment of a trust fund to make  
14          amounts available to the Tribe under this title is  
15          consistent with the principles of self-governance and  
16          self-determination.

17          (b) PURPOSES.—The purposes of this title are as follows:  
18          low:

19          (1) To provide for additional financial compensation  
20          to the Tribe for the acquisition by the  
21          Federal Government of 104,492 acres of land of the  
22          Tribe for the Oahe Dam and Reservoir project in a  
23          manner consistent with the determinations of the  
24          Comptroller General described in subsection (a)(4).  
25

1           (2) To provide for the establishment of the  
2       Cheyenne River Sioux Tribal Recovery Trust Fund,  
3       to be managed by the Secretary of the Treasury in  
4       order to make payments to the Tribe to carry out  
5       projects under a plan prepared by the Tribe.

6 **SEC. 103. DEFINITIONS.**

7       In this title:

8           (1) **TRIBE.**—The term “Tribe” means the  
9       Cheyenne River Sioux Tribe, which is comprised of  
10      the Itazipco, Siha Sapa, Minniconjou, and  
11      Oohenumpa bands of the Great Sioux Nation that  
12      reside on the Cheyenne River Reservation, located in  
13      central South Dakota.

14          (2) **TRIBAL COUNCIL.**—The term “Tribal Coun-  
15      cil” means the governing body of the Tribe.

16 **SEC. 104. CHEYENNE RIVER SIOUX TRIBAL RECOVERY**  
17 **TRUST FUND.**

18      (a) **CHEYENNE RIVER SIOUX TRIBAL RECOVERY**  
19 **TRUST FUND.**—There is established in the Treasury of  
20 the United States a fund to be known as the “Cheyenne  
21 River Sioux Tribal Recovery Trust Fund” (referred to in  
22 this title as the “Fund”). The Fund shall consist of any  
23 amounts deposited into the Fund under this title.

24      (b) **FUNDING.**—On the first day of the 11th fiscal  
25 year that begins after the date of enactment of this Act,

1 the Secretary of the Treasury shall, from the General  
2 Fund of the Treasury, deposit into the Fund established  
3 under subsection (a)—

4 (1) \$290,722,958; and

5 (2) an additional amount that equals the  
6 amount of interest that would have accrued on the  
7 amount described in paragraph (1) if such amount  
8 had been invested in interest-bearing obligations of  
9 the United States, or in obligations guaranteed as to  
10 both principal and interest by the United States, on  
11 the first day of the first fiscal year that begins after  
12 the date of enactment of this Act and compounded  
13 annually thereafter.

14 (c) INVESTMENT OF TRUST FUND.—It shall be the  
15 duty of the Secretary of the Treasury to invest such por-  
16 tion of the Fund as is not, in the Secretary of Treasury's  
17 judgment, required to meet current withdrawals. Such in-  
18 vestments may be made only in interest-bearing obliga-  
19 tions of the United States or in obligations guaranteed as  
20 to both principal and interest by the United States. The  
21 Secretary of the Treasury shall deposit interest resulting  
22 from such investments into the Fund.

23 (d) PAYMENT OF INTEREST TO TRIBE.—

24 (1) WITHDRAWAL OF INTEREST.—Beginning on  
25 the first day of the 11th fiscal year after the date

1 of enactment of this Act and, on the first day of  
2 each fiscal year thereafter, the Secretary of the  
3 Treasury shall withdraw the aggregate amount of in-  
4 terest deposited into the Fund for that fiscal year  
5 and transfer that amount to the Secretary of the In-  
6 terior for use in accordance with paragraph (2).  
7 Each amount so transferred shall be available with-  
8 out fiscal year limitation.

9 (2) PAYMENTS TO TRIBE.—

10 (A) IN GENERAL.—The Secretary of the  
11 Interior shall use the amounts transferred  
12 under paragraph (1) only for the purpose of  
13 making payments to the Tribe, as such pay-  
14 ments are requested by the Tribe pursuant to  
15 tribal resolution.

16 (B) LIMITATION.—Payments may be made  
17 by the Secretary of the Interior under subpara-  
18 graph (A) only after the Tribe has adopted a  
19 plan under subsection (f).

20 (C) USE OF PAYMENTS BY TRIBE.—The  
21 Tribe shall use the payments made under sub-  
22 paragraph (B) only for carrying out projects  
23 and programs under the plan prepared under  
24 subsection (f).

1 (e) TRANSFERS AND WITHDRAWALS.—Except as  
 2 provided in subsections (c) and (d)(1), the Secretary of  
 3 the Treasury may not transfer or withdraw any amount  
 4 deposited under subsection (b).

5 (f) PLAN.—

6 (1) IN GENERAL.—Not later than 18 months  
 7 after the date of enactment of this Act, the gov-  
 8 erning body of the Tribe shall prepare a plan for the  
 9 use of the payments to the Tribe under subsection  
 10 (d) (referred to in this subsection as the “plan”).

11 (2) CONTENTS OF PLAN.—The plan shall pro-  
 12 vide for the manner in which the Tribe shall expend  
 13 payments to the Tribe under subsection (d) to  
 14 promote—

15 (A) economic development;

16 (B) infrastructure development;

17 (C) the educational, health, recreational,  
 18 and social welfare objectives of the Tribe and  
 19 its members; or

20 (D) any combination of the activities de-  
 21 scribed in subparagraphs (A) through (C).

22 (3) PLAN REVIEW AND REVISION.—

23 (A) IN GENERAL.—The Tribal Council  
 24 shall make available for review and comment by  
 25 the members of the Tribe a copy of the plan be-



1 fore the plan becomes final, in accordance with  
2 procedures established by the Tribal Council.

3 (B) UPDATING OF PLAN.—The Tribal  
4 Council may, on an annual basis, revise the  
5 plan to update the plan. In revising the plan  
6 under this subparagraph, the Tribal Council  
7 shall provide the members of the Tribe oppor-  
8 tunity to review and comment on any proposed  
9 revision to the plan.

10 (C) CONSULTATION.—In preparing the  
11 plan and any revisions to update the plan, the  
12 Tribal Council shall consult with the Secretary  
13 of the Interior and the Secretary of Health and  
14 Human Services.

15 (4) AUDIT.—

16 (A) IN GENERAL.—The activities of the  
17 Tribe in carrying out the plan shall be audited  
18 as part of the annual single-agency audit that  
19 the Tribe is required to prepare pursuant to the  
20 Office of Management and Budget circular  
21 numbered A-133.

22 (B) DETERMINATION BY AUDITORS.—The  
23 auditors that conduct the audit described in  
24 subparagraph (A) shall—

1 (i) determine whether funds received  
 2 by the Tribe under this section for the pe-  
 3 riod covered by the audit were expended to  
 4 carry out the plan in a manner consistent  
 5 with this section; and

6 (ii) include in the written findings of  
 7 the audit the determination made under  
 8 clause (i).

9 (C) INCLUSION OF FINDINGS WITH PUBLI-  
 10 CATION OF PROCEEDINGS OF TRIBAL COUN-  
 11 CIL.—A copy of the written findings of the  
 12 audit described in subparagraph (A) shall be in-  
 13 serted in the published minutes of the Tribal  
 14 Council proceedings for the session at which the  
 15 audit is presented to the Tribal Council.

16 (g) PROHIBITION ON PER CAPITA PAYMENTS.—No  
 17 portion of any payment made under this title may be dis-  
 18 tributed to any member of the Tribe on a per capita basis.

19 **SEC. 105. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS**  
 20 **AND SERVICES.**

21 No payment made to the Tribe under this title shall  
 22 result in the reduction or denial of any service or program  
 23 with respect to which, under Federal law—

1           (1) the Tribe is otherwise entitled because of  
 2           the status of the Tribe as a federally recognized In-  
 3           dian tribe; or

4           (2) any individual who is a member of the Tribe  
 5           is entitled because of the status of the individual as  
 6           a member of the Tribe.

7   **SEC. 106. AUTHORIZATION OF APPROPRIATIONS.**

8           There are authorized to be appropriated such funds  
 9           as may be necessary to cover the administrative expenses  
 10          of the Fund.

11   **SEC. 107. EXTINGUISHMENT OF CLAIMS.**

12          Upon the deposit of funds (together with interest)  
 13          into the Fund under section 104(b), all monetary claims  
 14          that the Tribe has or may have against the United States  
 15          for the taking, by the United States, of the land and prop-  
 16          erty of the Tribe for the Oahe Dam and Reservoir Project  
 17          of the Pick-Sloan Missouri River Basin program shall be  
 18          extinguished.

19           **TITLE II—BOSQUE REDONDO**  
 20                   **MEMORIAL**

21   **SEC. 201. SHORT TITLE.**

22          This title may be cited as the “Bosque Redondo Me-  
 23          morial Act”.

24   **SEC. 202. FINDINGS AND PURPOSES.**

25          (a) FINDINGS.—Congress finds that—

1           (1) in 1863, the United States detained nearly  
2           9,000 Navajo and forced their migration across  
3           nearly 350 miles of land to Bosque Redondo, a jour-  
4           ney known as the “Long Walk”;

5           (2) Mescalero Apache people were also incarcer-  
6           ated at Bosque Redondo;

7           (3) the Navajo and Mescalero Apache people la-  
8           bored to plant crops, dig irrigation ditches and build  
9           housing, but drought, cutworms, hail, and alkaline  
10          Pecos River water created severe living conditions  
11          for nearly 9,000 captives;

12          (4) suffering and hardships endured by the  
13          Navajo and Mescalero Apache people forged a new  
14          understanding of their strengths as Americans;

15          (5) the Treaty of 1868 was signed by the  
16          United States and the Navajo tribes, recognizing the  
17          Navajo Nation as it exists today;

18          (6) the State of New Mexico has appropriated  
19          a total of \$123,000 for a planning study and for the  
20          design of the Bosque Redondo Memorial;

21          (7) individuals and businesses in DeBaca Coun-  
22          ty donated \$6,000 toward the production of a bro-  
23          chure relating to the Bosque Redondo Memorial;

24          (8) the Village of Fort Sumner donated 70  
25          acres of land to the State of New Mexico contiguous

1 to the existing 50 acres comprising Fort Sumner  
2 State Monument, contingent on the funding of the  
3 Bosque Redondo Memorial;

4 (9) full architectural plans and the exhibit de-  
5 sign for the Bosque Redondo Memorial have been  
6 completed;

7 (10) the Bosque Redondo Memorial project has  
8 the encouragement of the President of the Navajo  
9 Nation and the President of the Mescalero Apache  
10 Tribe, who have each appointed tribal members to  
11 serve as project advisors;

12 (11) the Navajo Nation, the Mescalero Tribe  
13 and the National Park Service are collaborating to  
14 develop a symposium on the Bosque Redondo Long  
15 Walk and a curriculum for inclusion in the New  
16 Mexico school curricula;

17 (12) an interpretive center would provide im-  
18 portant educational and enrichment opportunities  
19 for all Americans; and

20 (13) Federal financial assistance is needed for  
21 the construction of a Bosque Redondo Memorial.

22 (b) PURPOSES.—The purposes of this title are as fol-  
23 lows:

24 (1) To commemorate the people who were in-  
25 terned at Bosque Redondo.

1           (2) To pay tribute to the native populations’  
2           ability to rebound from suffering, and establish the  
3           strong, living communities that have long been a  
4           major influence in the State of New Mexico and in  
5           the United States.

6           (3) To provide Americans of all ages a place to  
7           learn about the Bosque Redondo experience and how  
8           it resulted in the establishment of strong American  
9           Indian Nations from once divergent bands.

10          (4) To support the construction of the Bosque  
11          Redondo Memorial commemorating the detention of  
12          the Navajo and Mescalero Apache people at Bosque  
13          Redondo from 1863 to 1868.

14   **SEC. 203. DEFINITIONS.**

15          In this title:

16           (1) MEMORIAL.—The term “Memorial” means  
17           the building and grounds known as the Bosque Re-  
18           dondo Memorial.

19           (2) SECRETARY.—The term “Secretary” means  
20           the Secretary of Defense.

21   **SEC. 204. BOSQUE REDONDO MEMORIAL**

22          (a) ESTABLISHMENT.— Upon the request of the  
23          State of New Mexico, the Secretary is authorized to estab-  
24          lish a Bosque Redondo Memorial within the boundaries  
25          of Fort Sumner State Monument in New Mexico. No me-

1 memorial shall be established without the consent of the Nav-  
 2 ajo Nation and the Mescalero Tribe.

3 (b) COMPONENTS OF THE MEMORIAL.—The memo-  
 4 rial shall include—

5 (1) exhibit space, a lobby area that represents  
 6 design elements from traditional Mescalero and Nav-  
 7 ajo dwellings, administrative areas that include a re-  
 8 source room, library, workrooms and offices, rest-  
 9 rooms, parking areas, sidewalks, utilities, and other  
 10 visitor facilities;

11 (2) a venue for public education programs; and

12 (3) a location to commemorate the Long Walk  
 13 of the Navajo people and the healing that has taken  
 14 place since that event

15 **SEC. 205. CONSTRUCTION OF MEMORIAL.**

16 (a) GRANT.—

17 (1) IN GENERAL.—The Secretary may award a  
 18 grant to the State of New Mexico to provide up to  
 19 50 percent of the total cost of construction of the  
 20 Memorial.

21 (2) NON-FEDERAL SHARE.—The non-Federal  
 22 share of construction costs for the Memorial shall in-  
 23 clude funds previously expended by the State for the  
 24 planning and design of the Memorial, and funds pre-

1       viously expended by non-Federal entities for the pro-  
2       duction of a brochure relating to the Memorial.

3       (b) REQUIREMENTS.—To be eligible to receive a  
4       grant under this section, the State shall—

5               (1) submit to the Secretary a proposal that—

6                       (A) provides assurances that the Memorial  
7                       will comply with all applicable laws, including  
8                       building codes and regulations; and

9                       (B) includes such other information and  
10                      assurances as the Secretary may require; and

11              (2) enter into a Memorandum of Understanding  
12      with the Secretary that shall include—

13                      (A) a timetable for the completion of con-  
14                      struction and the opening of the Memorial;

15                      (B) assurances that construction contracts  
16                      will be competitively awarded;

17                      (C) assurances that the State or Village of  
18                      Fort Sumner will make sufficient land available  
19                      for the Memorial;

20                      (D) the specifications of the Memorial  
21                      which shall comply with all applicable Federal,  
22                      State, and local building codes and laws;

23                      (E) arrangements for the operation and  
24                      maintenance of the Memorial upon completion  
25                      of construction;



1 (F) a description of Memorial collections  
2 and educational programming;

3 (G) a plan for the design of exhibits in-  
4 cluding the collections to be exhibited, security,  
5 preservation, protection, environmental controls,  
6 and presentations in accordance with profes-  
7 sional standards;

8 (H) an agreement with the Navajo Nation  
9 and the Mescalero Tribe relative to the design  
10 and location of the Memorial; and

11 (I) a financing plan developed by the State  
12 that outlines the long-term management of the  
13 Memorial, including—

14 (i) the acceptance and use of funds  
15 derived from public and private sources to  
16 minimize the use of appropriated or bor-  
17 rowed funds;

18 (ii) the payment of the operating costs  
19 of the Memorial through the assessment of  
20 fees or other income generated by the Me-  
21 morial;

22 (iii) a strategy for achieving financial  
23 self-sufficiency with respect to the Memo-  
24 rial by not later than 5 years after the  
25 date of enactment of this Act; and

1                   (iv) a description of the business ac-  
 2                   tivities that would be permitted at the Me-  
 3                   morial and appropriate vendor standards  
 4                   that would apply.

5 **SEC. 206. AUTHORIZATION OF APPROPRIATIONS.**

6           (a) IN GENERAL.—There are authorized to be appro-  
 7           priated to carry out this title—

8                   (1) \$1,000,000 for fiscal year 2000; and

9                   (2) \$500,000 for each of fiscal years 2001 and  
 10           2002.

11           (b) CARRYOVER.—Any funds made available under  
 12           this section that are unexpended at the end of the fiscal  
 13           year for which those funds are appropriated, shall remain  
 14           available for use by the Secretary through September 30,  
 15           2002 for the purposes for which those funds were made  
 16           available.

Passed the Senate November 19, 1999.

Attest:

*Secretary.*

106TH CONGRESS  
1ST SESSION

**S. 964**

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